



## ***MEMORANDUM***

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**DATE:** December 1, 2020

**FROM:** Patrick Miller – Chief of Operations

**SUBJECT:** Repurchase Right of Duke Elementary (Kirby) Driveway

Duke Elementary west side access driveway off of Kirby Drive serves as the parent pickup for the school and in 2015 became the property of Kirby at Southfork, LLC (owner). As the owner, Kirby at Southfork now pays annual property taxes on the land. Under the arrangement of the 2015 purchase and deed agreement, Alvin ISD has the exclusive use and control of the drive for the benefit of Duke Elementary.

The terms of the 2015 purchase secured for Alvin ISD “Prohibited Use Agreement” binding and limiting the business and types of activity at the adjacent shopping center. Restrictive covenants were signed and filed with the deed. The exclusive use, control, and prohibited use agreement carry forward with any new ownership deed assignment.

In addition, the agreement contained a “Right to Repurchase” clause that in the event the owner was to offer the adjacent business property for sale, AISD would have first rights to repurchase the land.

At this time, the owners have a contract for sale and in compliance with the deed obligation have formally offered Alvin ISD our right to re-purchase the driveway property. Since exclusive control and the restrictive covenants remain in effect either way, there is no advantage for AISD to spend capital funds to repurchase and at the same time cause loss of annual property tax collection on the property.

It is the recommendation of the AISD Building Programs Department not to exercise the repurchase option and authorize the Superintendent or their designee to give notice of such and execute the necessary documents.